

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 NSCE-00

SSO-00 USIE-00 INRE-00 OMB-01 SAM-01 IO-10 /062 W

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O R 090909Z AUG 75

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 527

INFO AMEMBASSY ISLAMABAD

AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

C O N F I D E N T I A L NEW DELHI 10782

E.O. 11652: GDS

TAGS: PFOR, PINT, IN

SUBJ: NEW CONSTITUTIONAL AMENEDMENT CONSIDERABLY WIDENS MRS.
GANDHI'S IMMUNITY FROM THE COURTS

BEGIN SUMMARY. A NEW GOI AMENDMENT PASSED AUGUST 9 BY THE
RAJYA SABHA SEEKS TO INSULATE THE PRIME MINISTER ALONG WITH
THE PRESIDENT AND STATE GOVERNORS FROM CRIMINAL PROCEEDINGS,
ARREST, AND IMPRISONMENT WHILE AND AFTER THEY ARE IN OFFICE.
END SUMMARY.

1. THE GOI INTRODUCED AND THE RAJYA SABHA PASSED ANOTHER
CONSTITUTIONAL AMENDMENT BILL ON AUGUST 9. THE
BILL PROVIDES MRS. GANDHI WITH IMMUNITY FROM JURISDICTION
GRANTED BY ARTICLE 361 OF THE CONSTITUTION TO THE PRESIDENT
AND STATE GOVERNORS, AND ENLARGES THE SCOPE OF THE IMMUNITY.

2. THE AMENDMENT, PASSED BY A VOTE OF 150-0, EXTENDS
IMMUNITY FROM CRIMINAL JURISDICTION, ARREST, AND
IMPRISONMENT PREVIOUSLY ENJOYED ONLY BY THE PRESIDENT
AND STATE GOVERNORS TO THE PRIME MINISTER AS WELL. IT
ENLARGES THIS IMMUNITY TO COVER "A PERSON WHO IS OR HAS
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BEEEN THE PRESIDENT OR THE PRIME MINISTER OR THE GOVERNOR

OF A STATE." (HERETOFORE, IT WAS APPLICABLE ONLY TO THE PRESIDENT OR STATE GOVERNORS WHILE THEY HOLD OFFICE.) THE AMENDMENT ALSO GIVES THE PRIME MINISTER AS WELL AS THE PRESIDENT AND STATE GOVERNORS IMMUNITY FROM CIVIL PROCEEDINGS WHILE THEY ARE IN OFFICE. (PREVIOUSLY, ARTICLE 361 ONLY REQUIRED A TWO-MONTH NOTIFICATION FOR THE INSTITUTION OF CIVIL PROCEEDINGS AGAINST THE PRESIDENT AND VICE PRESIDENT; AND IT ALLOWED THE PROCEEDINGS TO BE INSTITUTED DURING INCUMBENCY.)

3. THE LAST MINUTE EXTENSION OF THE RAJYA SABHA TO PASS THE NEW AMENDMENT PROVIDES ONE FURTHER ILLUSTRATION (IF ONE IS NEEDED) OF THE GO'S HAPHAZARD AND PIECEMEAL APPROACH DURING THE MONSOON SESSION OF PARLIAMENT. THE LOK SABHA IS ADJOURNED AND FINAL ENACTMENT OF THE BILL MUST AWAIT ITS ACQUIESCENCE (IT IS SCHEDULED TO RECONVENE IN ABOUT TWO WEEKS) AND THEREAFTER RATIFICATION BY OVER HALF OF THE STATE ASSEMBLIES.

4. THE NEW AMENDMENT CAPS THE STRING OF LEGISLATION AND AMENDMENTS PASSED DURING THIS SESSION DESIGNED TO INSULATE MRS. GANDHI FROM THE JUDICIARY. THE NEXT SESSION WILL PROBABLY DEAL WITH ENLARGING HER POWERS.
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